REMARKS

In the above-identified Office Action, the Examiner has rejected claims 1-13 under 35 U.S.C. §112 as indefinite. Applicant has amended claim 1 correcting the indefiniteness by deleting the term "means". As such, Applicant considers all of the claims now to be definite and acceptable under 35 U.S.C. §112.

In addition, the Examiner has rejected claims 1-11 under 35 U.S.C §103(a) as obvious over the patent to Horton in view of the patent to Kolmeder et al. The Examiner has stated that it would have been obvious to one of ordinary skill to provide Horton a Kepler telescope as taught by Kolmeder et al. Further, with respect to claims 2, 5 and 9, the Examiner has stated it would have been obvious since the Examiner considers the parameters claimed to be merely optimum values of a result effective variable which requires only routine skill in the art. Applicant disagrees with the Examiner's interpretation of the invention, noting that the Examiner is engaging in hindsight reconstruction of the invention in the rejections. There is no suggestion in the art that, as claimed, the beam splitter apparatus would have a Kepler telescope arranged in the detour line. Further, there is no suggestion in either Kolmeder et al. or Horton that such should be done. Finally having reached such a structure, there is no suggestion in either art that the beam splitter apparatus should have a mirror arranged at an angle to the beam path (claim 1) or the beam splitter apparatus being arranged at the Brewster angle to the beam path (claim 14) or the beam splitter apparatus being arranged at an angle between 35 and 50 degrees to the beam path (claim 15). Such is not merely optimizing a result effective variable of the invention. There is no suggestion from the art that these facets of the invention should be positioned as specified, much less a suggestion from the art that these parameters should be varied to any extent. As a result, patentability exists in the subject invention as now claimed.

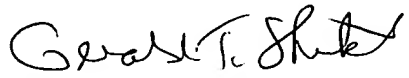
The Examiner has also rejected claims 12-13 under 35 U.S.C. §103(a) as unpatentable over Horton in view of Kolmeder et al. and further in view of the British patent. The Examiner has stated that the British patent teaches a phase-retarding plate that would have been obvious at the time the invention was made to provide Horton to Kolmeder et al. the phase-retarding plate

as taught by the British patent. Applicant disagrees with this noting that 1) that the claim 1 upon which claims 12-13 are ultimately dependent, and patentable as set forth above and accordingly claims 12-13 should also be patentable being dependent thereon. In addition, Applicant notes that there is no suggestion in either Horton, Kolmeder et al., or the British patent that a phase-retarding plate would be beneficial in the structure of Horton and Kolmeder et al. as combined by the Examiner.

Applicant hereby requests reconsideration and re-examination thereof.

With the above amendments and the remarks, this application is considered ready for allowance, and Applicants earnestly solicit an early notice of same. If the Examiner believes that a telephone conference would expedite prosecution of the subject application, he is respectfully requested to call the undersigned attorney at the telephone number listed below.

Respectfully submitted,



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